

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA)	
)	Criminal No. 15-10117-BPS
v.)	
)	
ANDREW S. GORDON)	

**GOVERNMENT’S OPPOSITION TO DEFENDANT’S MOTION TO REDUCE
SENTENCE [SEALED DOCKET NUMBER 161]**

The United States opposes Defendant’s latest motion for early release from incarceration. Defendant has petitioned the Court to replace his sentence of incarceration with home confinement. Defendant’s request should have been directed to the warden of the facility where he is incarcerated, not the Court. The warden has the authority, in some circumstances, to allow a prisoner to serve a remaining portion of his or her sentence in home confinement. Even the warden’s authority is controlled by statute. In his motion (or letter which has been construed as a motion), Defendant incorrectly calculates his eligibility for home confinement under the First Step Act. The warden may convert a sentence of imprisonment to home confinement when a prisoner has less than 6 months remaining on his or her sentence or when the prisoner has less than ten percent remaining on his or her sentence of confinement. A warden may also factor in earned good time credit when determining eligibility for home confinement – but may not use both methods. A prisoner may get one or the other, not both, as the defendant incorrectly claims.

This Court does not have jurisdiction over the issue raised by Defendant, namely where he should serve the balance of his sentence. For these reasons, the United States asks the Honorable Court to dismiss Defendant’s motion.

Respectfully submitted,
RACHAEL S. ROLLINS
United States Attorney

By: /s/ Rachel Y. Hemani
RACHEL Y. HEMANI
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Assistant U.S. Attorneys

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing upon all counsel of record by electronic filing notice. A copy was mailed to Defendant at the follow address:

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/s/ David G. Tobin
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